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Denying the Denial: Reappraisal of 'Genocide' in East Pakistan¹

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Abstract

The conflict in erstwhile East Pakistan, especially during 1970-1, was one of the bloodiest and most contested in the post-WWII era. While Bangladesh has always called it genocide, Pakistan has always denied both the intent and the scale of killings. This paper argues that the struggle of East Pakistanis to form their own country was reduced to a civic-political demand and not an ethnic-based claim to distinct nationalism. Revisiting Bangladesh's claims of genocide based on primary and archival material, this paper posits that the violence unleashed in former East Pakistan amounted to the systematic wiping out of the ethnic distinctiveness of its people through ideological, economic, political and military means. This paper contends that the recognition of the massacre in former East Pakistan during its Liberation Struggle as genocide is not only ethically demanded, but this recognition also demands a qualitative widening of the existing legal understanding of genocide.

Keywords: Genocide, Bangladesh Liberation War, East Pakistan, War crimes, Ethnic cleansing

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Introduction

In 1971, one of the bloodiest conflicts of post-Second World War era occurred in East Pakistan, now Bangladesh. According to different sources, anywhere from 26000 to 3000000 East Pakistanis became victims of atrocities committed by the Pakistani military and paramilitary. Despite the knowledge of this carnage, there was a general disinclination to regard this as genocide from the international community and the “U.S. government, for whom Pakistan was an ally, suppressed all internal reports at that time claiming that it was genocide” (Spencer, 2012). At that time, the only international platform to discuss the possibility of genocide was The International Commission of Jurists that highlighted atrocities committed by Pakistani military and paramilitary.

The Commission agreed with the claim of ‘genocide of Hindus’. However, in case of the attacks on Bengalis, the Commission could not reach a conclusive judgment. Later, the Secretary-General of the Commission noted that “there would be great difficulty in establishing the intent to destroy the Bengali people’ to fit the UN definition of genocide” (MacDermot, 1973). This was because of the complexities surrounding the interpretation of UN convention of genocide.

The Hamoodur Rahman Commission, established by the post-war Pakistani government of Zulifqar Ali Bhutto in 1972, recognised the atrocities committed by the Pakistani military and paramilitary against Bengalis and mentioned many instances of indiscriminate killings through firing squads, burning of villages and sudden disappearances (Hamoodur Rahman Commission Report: Supplementary report). However, interestingly, the report neither acknowledged nor denied the claim of genocide. Since then, a fair amount of academic literature has been written revealing the genocidal outcome of the conflict. This literature highlights the ideological, political, cultural and economic background of the conflict and reveals the intent of the perpetrators and discusses quantitative and qualitative aspects of the genocide in East Pakistan (Spencer, 2012; See Akmam, 2002; Beachler, 2007; Farooq, 2009).

The recent book by Sarmila Bose, *Dead Reckoning: Memories of the 1971 Bangladesh War*, chronicles the 1971 war by reconstructing the memories of those on both sides of the conflict. She agrees that extra-judicial political killings of many adult Bengalis, secessionists or suspected to be secessionists, by Pakistani military and paramilitary took place. She further mentions that the Pakistani military chose proxies such as “age (adult), gender (male) and religion (Hindus)” (Bose, 2011) to pick its victims. However, she concludes that these political killings of Bengalis “do not fit the U.N. definition of genocide” (ibid.). In spite of mentioning the text of the U.N. Convention of genocide, she does not go into its intricate details and jumps the gun in concluding. Besides, her focus is on the quantitative outcome of the events. In response, I argue here that the basic problem with Bose’s argument to deny the claim of the genocide of Bengalis is that she does not consider the ideological and political background of the conflict and that instead, her focus is on the secessionist movement only as she argued later in her book that ‘this... is not about the long-term historical violence of 1971. Its objective is to focus on the war itself’ (ibid.). This flaw was also pointed out by Naeem Mohaimen (2011).

For this reason, she sees the killings of Bengalis in anon-combat situation as political killings of secessionists or suspected to be secessionists. However, the ideological and political background of the conflict, which I shall highlight later, suggest that the perpetrators of the killings already had the intent to undermine Bengali nationalism and seize power, in order to alter the ideology and politics of East Pakistanis - Bengalis, even before the secessionist movement started and that the secessionist movement was an effect of military coercion, not a cause. Hence, the killing of Bengalis was not merely political as this also included the aspect of ethnicity and thus, fits the U.N. definition of genocide.

Bose agrees with the genocidal persecution of Hindus but she also analyzes this with the same lens of political killings as she further labels this as a political killing of suspected to-be secessionists as agents of India and insists that the “Pakistan army’s political killings turned ‘genocidal’ when religious profiling was used for the selection of victims” (Bose, 2011). However, I argue that the ideological and political background of the conflict suggests that it

was not merely political killing but also included an aspect of systematic killing of Hindus with an aim of destroying them completely as they were considered adversaries of Islam and an influence on Bengali nationalism, and thus assumed an enemy of the ideology and unity of Pakistan which had no place in the perpetrators' utopian version of an Islamic society.

Therefore, the purpose of this article is to reexamine the genocide in East Pakistan to emphasise that it was erroneous to have considered East Pakistanis' demand for self-determination as a political, secessionist demand alone. There were larger and more systemic factors, rooted in the denial of their ethnic identity, which led to the demand and the creation of a new country, Bangladesh.

I shall start by re-framing the definition of genocide with the help of information related to its features, characteristics and nature provided by U.N. *Convention on the Prevention and Punishment of the Crime of Genocide* (1948), hearings of International Criminal Court (ICC) Tribunals for Rwanda and Yugoslavia, and secondary sources, especially, the recent book *Genocide since 1945* by Philip Spencer (2012). The purpose of this exercise is to create a new framework that can capture the events preceding and those that unfolded in 1971 in a way that depicts both the ethnic nature of East Pakistanis' national aspirations and that their killing was indeed genocide.

Informed by the proposed template on genocide, I shall proceed to highlight the ideological, political and economic background of the secessionist conflict and genocide with the help of primary sources, the Hamoodur Rahman Commission report and Pakistani newspapers, and different secondary sources to trace the intent of the perpetrators. Further, I shall discuss three case studies of the killing of students (Dacca University massacre), Bengali pro-liberation intellectuals and professionals (December killings of intellectuals and professionals) and Hindus (killing at Thanapara) from Sarmila Bose's book and will cross-examine them with other primary and secondary sources to counter the abject (international and national) denial to recognize the massacring of East Pakistanis as genocide.

What is Genocide?

Convention on the Prevention and Punishment of the Crime of Genocide (United Nations, 1951)² is the principal document of international law that defines genocide. The Article II¹ of this convention defines genocide as “any of the following act committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group.” These acts include

- a) Killing members of the group;
- b) Causing serious bodily or mental harm to members of the group;
- c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- d) Imposing measures intended to prevent births within the group;
- e) Forcibly transferring children of the group to another group.

The convention does not explain what is meant by *intent*. The convention defines genocide as intent “to destroy in whole or in part... a group as such”, therefore, it is assumed that the special or specific intent has to be proven for the charge of genocide to stand, which is called *dolus specialis*. (Greenfield, 2008). In recent years, a new approach has emerged which asserts that even without prior intent if the perpetrators have the knowledge that their act or acts are likely to destroy the group then they are guilty of committing genocide (Greenawalt, 1999). This approach was used by International Criminal Court (ICC) Tribunal for Rwanda, considering “that intent is a mental factor which is difficult, even impossible, to determine” (Prosecutor v. Akayesu, 1998) and noted that the perpetrator “is culpable because he knew or should have known that the act committed would destroy, in whole or in part, a group”(ibid.). With the help of recent court judgments, Spencer argues that “intent can be inferred from the actions taken, in a sense reversing the order of presentation in the Convention-

from act to intent” (Spencer, 2012). Therefore, genocide may not be intended, but the outcomes of certain actions may be genocidal.

The other problem with the existing UN definition is related to the quantitative aspect of the process of destruction as there is no reference in the text to the number of killed or subjected to serious bodily or mental harm at all. It is beyond any doubt that genocide means not just the loss of one life but many lives. However, it can be assumed from the text of convention that the number killed could be as low as one. As ICC Tribunal for Rwanda puts it in case of act of serious bodily or mental harm [Article 2(2)]

... for any of the acts charged under Article 2 (2) of the Statute to be a constitutive element of genocide, the act must have been committed against one or several individuals, because such individual or individuals were members of a specific group, and specifically because they belonged to this group. Thus, the victim is chosen not because of his individual identity, but rather on account of his membership of a national, ethnical, racial or religious group. The victim of the act is therefore a member of a group, chosen as such, which, hence, means that the victim of the crime of genocide is the group itself and not only the individual (Prosecutor v. Akayesu, 1998).

It can be inferred from the statement of Tribunal that the same applies to the act of killing members of a group [Article 2(1)]. Furthermore, it is not clear what is meant by ‘in part’ as the Convention does not explain the term. Spencer’s work explains this problem by focusing on the qualitative aspect of destruction rather than the quantitative aspect. He argues about the qualitative aspect of destruction that,

it might involve the targeting of particular groups within the overall group, without whose leadership the group might find it hard to survive... Or it might involve an attack on a group in a particular area which lies at the heart of the group’s existence. Without a political or cultural or physical core, the group would find it difficult to sustain life, to retain sufficient cohesion sense of purpose (Spencer, 2012).

Robert Melson’s (1992) work provides another view about this by differentiating genocide into two types, “partial genocide” and

“total genocide”, depending on the amount of damage done to a group of victims. In a total genocide, perpetrators attempt to destroy the whole group of victims and partial genocide is a “... mass murder in order to coerce and to alter the identity and politics of the group, not to destroy it”(Beachler, 2007).

Throughout this paper, my focus would be on Article 2(1), killing members of the group, as denial of genocide, in general, revolves around this provision. Therefore, for the purpose of this article is to argue that killing of members of a national, ethnic, racial or religious group or particular groups within a group or on a group in a particular area that lies at the heart of group’s existence in order to completely destroy it or to alter the identity or politics of the group could be termed as genocide.

Different nations: Ethnic distinctions fuelling nationalism

The state of Pakistan was a product of a bloody division, the partition of India in 1947, displacing 12.5 million people and leaving one million dead. The partition was a result of the two-nation theory propagated by Muhammad Ali Jinnah, leader of Muslim League and the founder of the state of Pakistan, stating that Muslims and Hindus are two different nations as they follow two distinct social orders and they cannot coexist in a single state (Akmam 2002). As a result, Islam has been the essential element of Pakistan’s national identity and “the Pakistani state has increasingly sought to sponsor Islamization both for ideological purposes and purposes of legitimization”(Talbot, 2012).

The two wings of Pakistan, East Pakistan and West Pakistan, were separated by 1200 miles but the separation was more than physical. The East Pakistanis, Bengalis, both Muslims and Hindus, were ethnically, culturally, and economically different from the West Pakistanis. East Pakistan was home to a substantial population of Hindus that preferred to remain in the newly independent state (Melson, 1992). The Census of 1961 indicated that this population was still nearly 18.4% of the total population of East Pakistan (Census Organization, 1962) These Hindus were perceived as ‘friends’ of Pakistan’s enemy, India, by the ruling elite of Pakistan. Together, with their fellow Bengali speaking Muslim citizens, they formed a majority of the population of Pakistan. However, they

experienced substantial inequalities and discrimination (Misra, 1972).

The economy of East Pakistan was weak since colonial times, but after the independence, no serious efforts were made by the Government of Pakistan to develop it. The overall economic growth of united Pakistan in the 1960s was significant; however, it undermined the unity of Pakistan as its impact was different in both wings as the economic growth rate in East Pakistan lagged far behind that of West Pakistan because of unjust economic policies of Ayub Khan (Beachler, 2007). This trend affected the East Pakistani population and the per capita income of West Pakistan, which was 32% higher than East Pakistan in 1960, was 61% higher by the end of the decade (Melson, 1992). As a consequence, the East Pakistanis started to think that “West is exploiting their natural resources” (Spencer, 2012). Talbot (2012) calls this exploitation “internal colonialism” (Beachler, 2007).

The institutions of military and bureaucracy had most of their recruitment from the province of Punjab. The Bengalis were not considered for jobs in these institutions as official records of the 1960s shows that “only 5 percent of Army Officer Corps and around 30 percent of elite cadre CSP were Bengalis” (ibid.). Punjabi dominated military and bureaucracy, and Urdu-speaking political elite preferred to establish a centralized state structure. In this regard, the first step was the decision of the judiciary in favour of the Governor General – “doctrine of necessity”. This decision established the supremacy of the Governor General over Parliament (Hussain, 2010). Ayub Khan maintained the centralized state system in which main powers rested in the hands of bureaucracy and military.

Cultural integration also accompanied political centralization with the aim of de-emphasizing the distinctiveness of Bengali. Urdu, which was spoken by a small number of migrants, was made into “an essential element of the Islamic nature of Pakistan” (Oldenburg, 1985) as claims were put by many advocates of Urdu “that the language was part of Islamic culture in South Asia and that it was more closely related to Arabic than other South Asian languages” (Spencer, 2012). The purpose of this effort was to ‘purify’ the Bengali culture of the Hindu influence. (ibid.) Many

attempts were made by the government to bring Urdu and Bengali closer to each other (Beachler, 2007). Meanwhile, the Government refused to permit the 100th anniversary of the celebration of the birth of great Bengali poet Rabindranath Tagore, a Hindu, and later banned the broadcasting of his poetry. This act resulted in turmoil in East Pakistan (ibid.). The language policy of the Central Government also had an economic dimension as the East Pakistanis thought, according to this policy, Urdu-speaking West Pakistanis would get more government jobs, therefore, “their economic interests, already neglected, would receive a further setback” (Melson, 1992). Misra (1972) with the help of quantitative analysis suggests that exploitation of East Pakistanis by the West Pakistani military and political elite could be characterized as “intrastate imperialism” and concludes: “through a constant and consistent effort of the ruling elite of the country, the eastern wing was subjected to political, economic and sociocultural exploitation, reminiscent of the traditional relationship between an imperial power and colony” (ibid.).

In May 1969, as a result of these developments, the nationalist leadership of East Pakistan proposed a ‘6-point program’. This 6-point agenda demanded the establishment of full autonomy for Eastern Wing as proposed in the Lahore Resolution of 1940 (Schendel, 2009). The main Bengali political party, the Awami League took part in the election of 1970 on the basis of this 6-point agenda and achieved a striking victory in East Pakistan and an overall majority in the country, but failed to win any seat from West Pakistan. According to these results, Awami League had the right to form a government. However, the demand for implementation of 6 points of Awami League, in order to end the exploitation of East Pakistan by West Pakistan, was not acceptable to the military and political parties of West Pakistan. Before the election, General Yahya Khan had said in a press conference that “if the constitution made by National Assembly was not in conformity with the five principals laid down in the Legal Framework Order (LFO), then martial law would continue” (Dawn, 1970). Following the same premise, Zulfikar Ali Bhutto, leader of the second biggest party who won a majority in West Pakistan but did not win any seat from East Pakistan, refused to attend the 1st session of the Assembly that was to be held on 3 March 1970.

Due to the impasse, the military ruler General Yahya Khan cancelled the session of National Assembly on March 1. This was followed by famous speech of Mujibur Rahman, the leader of Awami League, on March 7 in Ramna Racecourse in which he urged the people of East Pakistan to struggle for independence and freedom but restrained from declaring unilateral independence. Further, he laid down a 4-point agenda including withdrawal of martial law and transfer of power to elected representatives of people and started “a non-violent and non-co-operation movement” until his demands were not accepted by Yahya’s regime (Dawn, 1971 (a)). During the movement, Mujibur Rahman stressed the nonviolent aspect of the movement as in a public procession on 16 March he articulated that “you cannot achieve anything in chaos and confusion and violence” (Dawn, 1971 (b)). The assessment of three weeks coverage of pro-West Pakistan English newspaper, *Dawn*, suggests that it was indeed a nonviolent movement. Even the Secretary-General of International Commission of Jurists recognized that “considering the prevailing tensions, there had been remarkably little violence” (Spencer, 2012).

Meanwhile, many rounds of negotiations occurred between Yahya Khan and Mujibur Rahman, and later Zulfikar Ali Bhutto also joined the negotiations. However, they failed to find apolitical solution to the situation. On 25 March, Yahya Khan secretly flew back to West Pakistan without declaring negotiations failed, and on the night of 25 and 26 March the military launched Operation Searchlight to suppress the unrest. On March 26, the regime of Yahya Khan banned all political activities, outlawed Awami League, and imposed complete press censorship (Dawn, 1971 (c)). As a result, a secessionist conflict began.

The political and ideological background of genocide

Helen Fein, one of the pioneers of genocide studies, argues that “specific purposes of perpetrator might vary because not all genocide were the same”. Therefore, she distinguishes genocide on the basis of purposes of perpetrators (Spencer, 2012). I choose two kinds of genocide from her characterization, “despotic genocide” and “ideological genocide” which are relevant to the subject of my article, to interrogate the intent of perpetrators of genocide. In

“despotic genocide”, “the aim is to destroy groups which represent an actual or potential obstacle to the enjoyment of total power”, and in ideological genocide, “there is autopian vision for a society in which the targeted group has no place” (ibid., p. 26).

In case of East Pakistan, the perpetrators had two kinds of purposes: first; ideological (ideological genocide); and second, political (despotic genocide). The ruling elite of Pakistan, military and bureaucracy, assumed “that the people of East Pakistan are culturally and racially inferior to those in West” and Bengali culture that was under the influence of Hindus is a threat to the ideology of Pakistan (ibid., p. 482).

As a result, as mentioned earlier, many efforts were made by the Pakistani government to purify the Bengali culture that resulted in resentment in East Pakistanis. However, after the victory of Awami League, it was assumed that it was a victory of Bengali culture, influenced by Hindus, over the ideology of Pakistan. The editorial of pro-Government Urdu newspaper *Nawa-i-Waqt* highlighted this mindset by blaming Hindus for secessionist motives of Bengalis by emphasizing the role of Hindu teachers in fostering of Bengalis students,

“85% of the teachers in primary schools in East Pakistan were Hindus. They were also a majority in the High Schools, and Hindu teachers were also a majority in colleges and universities. This means that we had appointed our own enemy for the education of a majority of our own progeny... If Pakistan has to remain alive then we have to destroy the aspirations of a United India, by India and its supporters. Therefore we must, without losing a minute, create a long-term plan to counter those who are creating this ‘Bangladeshi mindset,’ and implement it immediately. And this plan can only be predicated on the Ideology of Pakistan. We can only achieve this goal if Islam runs in our veins.” (Nawa-i-Waqt, 1971; translated by author)

Therefore, Pakistani generals, in order to substantiate their assumed cultural, political and ethnic superiority, planned to eliminate Bengali nationalists and especially Bengali Hindus. Akman highlights the ideological aspects of the conflict:

The ideology to destroy the Bengali nation was that they were descendants of aboriginal Indian tribes. They do not deserve to rule but only to be ruled. Therefore, they were to be crushed in such a way that they never could again demand the fruits of election victory. The Hindus as the victims had the double negative characteristics – they were Bengali and Hindus who were considered enemies of Islam and agents of India. So, they had to be exterminated (Spencer, 2012).

This is further strengthened by the findings of Hamoodur Rahman Commission which contends that “there was a general feeling of hatred amongst soldiers and officers including Generals. There were verbal instructions to eliminate Hindus” (Hamoodur Rahman Commission Report: Supplementary report). This report mentions many instances where officers ordered, verbally or in writing, their subordinates to kill Bengalis and Hindus and declares that “the attitude of the Army authorities towards the Hindu minority also resulted in the large-scale exodus to India” (ibid.). In this regard, the claim of a Major of Pakistani Military is noteworthy as it highlights the intent for ideological genocide, “this is a war between the pure and the impure . . . The people here may have Muslim names and call themselves Muslims. But they are Hindu at heart. We are now sorting them out... Those who are left will be real Muslims. We will even teach them Urdu” (Spencer, 2012).

The perpetrators also had political motives. As mentioned earlier, the West Pakistani dominated military and political elite of Pakistan had been exploiting the resources of East Pakistan and a myth was established that since Bengalis are descendants of aboriginal Indians, they have no right to rule. When the Awami League won the elections of 1970, which the Awami League fought on the basis of 6 point agenda demanding full autonomy, it became a threat to the ambitions of the military.

Yahya Khan cancelled the session of National Assembly, which was going to be held on 3rd March in Dacca. During the “non-violent, non-cooperation movement” (Dawn, 1970) of Awami League, Yahya Khan conducted “abortive and probably not serious” negotiations with Mujibur Rahman (Spencer, 2012). Later, without declaring these negotiations failed he secretly left Dacca, leaving instructions to suppress the unrest. Hamoodur Rahman

Report highlights the intentions of Yahya Khan with a detailed analysis of the events surrounding the imposition of martial law by him on the 25 March 1969, in these words:

He [Yahya] did not take over the country in order merely to restore normal conditions and reintroduce the democratic process. He did so with a view to obtaining personal power and those who assisted him did so with knowledge of his intentions. (Hamoodur Rahman Commission Report: Supplementary report)

Later, no serious efforts were made by the Yahya regime to normalize the situation, i.e. "initiation of political dialogue with representatives of people of East Pakistan" and as a substitute, as Hamoodur Rahman Report puts it, 'fraudulent and useless measures were adopted' (ibid.). The target of these measures were civilians, workers of Awami League, Mukti Bahini and Hindus and these measures included death by firing squads, burning of villages, and disappearances by a process called, "Being sent to Bangladesh" (Spencer, 2012). Lt Col. Mansoorul Haq, GSO I, Division, revealed that the details of the process of "Being sent to Bangladesh" in the Report: "A Bengali, who was alleged to be a Mukti Bahini or Awami Leaguer, was being sent to Bangladesh - a code name for death without trial, without detailed investigations and without any written order by an authorized authority" (ibid., p. 26).

It is noteworthy that the recent judgment of Supreme Court of Bangladesh on Abdul Quader Mullah Case also declares this "cultural and political genocide" and elucidates the intent of perpetrators in these words:

"The object of committing genocide in Bangladesh...was to eliminate Awami League and its supporters in East Pakistan, in order to crush the will of majority earlier demonstrated in the general election and to turn a majority people into a minority forever by creating terror through indiscriminate killing, rape, arson, and looting...The acts of murder and violence against the people of Bangladesh by Yahya Khan's regime and under its influence, were committed without any shadow of doubt with the express intent." (Supreme Court of Bangladesh, Criminal Appeal NOS. 24-25, 2013)

Therefore, by keeping in mind the characterization of Helen Fein, it can be argued that perpetrators had two kinds of intent: first, ideological to impose the ideology of Muslim nationalism in East Pakistan; and second, political, to seize the political power to further exploit the East Pakistanis. Furthermore, the analysis of ideological and political background suggests that perpetrators of genocide had the intent to undermine Bengali nationalism and to destroy Hindus in order to construct a 'pure Pakistan' by altering the ideology and politics of East Pakistanis and seizing power.

Dacca University Massacre: Killing of Adult Men

On the night of 25-26 March 1971, the military launched its campaign with Operation Searchlight with the aim to crush Bengali nationalism. Hamoodur Rahman Commission Report states the account of Brigadier Shah Abdul Qasim about the use of force on that night that "no pitched battle was fought on the 25th of March in Dacca. Excessive force was used on that night. Army personnel acted under the influence of revenge and anger during the military operation". (Hamoodur Rahman Commission Report: Supplementary Report) Even Lt. Gen. A.A.K Niazi in his testimony to Hamoodur Rahman Commission argued that "military action [Operation Searchlight] was based on use of force primarily, at many places indiscriminate use of force was restored (sic)". (ibid., p. 23) Even Maj. General Umar, then Secretary of National Security Council, told in an interview to Sarmila Bose that Operation Searchlight was centered on "maximum use of force" (2011).

In April 1979, Dr. Jon E Rhode who had served as a physician with United States Agency for International Development wrote a letter to his representative, Ohio Republican Senator William Saxbe. This letter highlighted many important facts about the nature of that operation:

"My wife and I watched from our roof the night of March 25 as tanks rolled out of the Cantonment illuminated by the flares and the red glow of the fires as the city was shelled by artillery and mortars were fired into crowded slums and bazaars . . . On the 29th we stood at the Ramna Kali Bari, an ancient Hindu village of about 250 people in the center of Dacca Ramna Race Course, and witnessed the stacks of machine-gunned burning remains of men,

women, and children butchered in the early morning hours of March 29.” (Spencer, 2012)

These testimonies and witness accounts are enough to suggest that during Operation Searchlight excessive and indiscriminate force was used by the army personnel who were motivated by the feeling of revenge and anger. Dacca University was among first targets of Operation Searchlight on the night of 25-26 March. Rhode’s letter narrates their visit to the Dacca University on 29th March:

“. . . At the university area we walked through . . . two of the student dormitories at Dacca University [were] shelled by the army tanks. All inmates were slaughtered. . . . A man who was forced to drag the bodies outside, counted one hundred three Hindu students buried there . . . We also saw evidence of a tank attack at Iqbal Hall where bodies were still unburied.” (ibid.)

Sarmila Bose summarises the events surrounding the military operation in Dacca University, which had become the centre of Bengali nationalism, that “there were both-way-battles and one-sided massacres in Dacca University that night. It depended on where and when. Both way battles occurred in the principal ‘target’ student halls, Jagannath Hall (the Hindu hostel) and Iqbal Hall. Killing of unarmed and disarmed people happened at the halls after resistance had been crushed and at the adjoining apartments of the faculty.” (Bose, 2011 p. 53) In Bose’s argument there are two important things to note; “resistance” and “both-way battle”. It seems that Bose wants to contend that military’s action was undertaken to crush the armed resistance of inmates of Dacca University and when the military entered the university, a two-way battle started and which ended with the victory of military. However, this argument of Bose contradicts the report of Simon Dring, which she quoted early in her book to argue that Bengalis abandoned “heroic” version of their struggle in favour of “victimhood”. Simon Dring narrates the events surrounding the military operation in Dacca University:

“The supporters of Sheikh Mujibur Rahman talked a great deal before the army crackdown last month about how they would fight, but they did virtually nothing about preparing themselves.

They led noisy and often violent demonstrations, but they had no organization, no training, no weapons, and, as the army proved in Dacca, no real stomach in for war. In the capital the students, reckoned to be the militant hard core of the Awami League, lived in a similar dream world. They talked endlessly of fighting to the death. But they had nothing more than a few rifles from the 1939-45 war, equally ancient pistols, and some handmade bombs which, when the army moved in on March 25, were apparently not used. Once the shooting started the jeering, the shouting, the open defiance of the military might of Pakistan Government died quick death." (ibid., p. 62)

Later, through the analysis of military communications, she agrees that no automatic guns or grenades were used by the residents of Jagannath and Iqbal Halls but only bullets of 0.303 caliber was used against the military. She does not mention how the military dealt with the fire, however, it can be assumed from the account of Dr. Jon that military used excessive and indiscriminate force as he had noted that he witnessed the remnants of attack by tank shells on student Halls (Spencer, 2012).

The killing of unarmed and disarmed 'male' students and faculty that took place during the operation puts the number of casualties around 44 to 300 (Bose, 2011). The important thing to note in Bose's version is that military used the proxy of 'male adult' for killings. She also mentions that only killings took place and no wounded or prisoners were taken. This suggests that military personnel present at the massacre made it possible that no "adult men" survives. It is noteworthy that Bose also mentions that at the time of operation most of students and faculty had left the university because the classes were halted due to the political situation. Therefore, it can be assumed that the number of casualties could be higher if more students and faculty were present at the time of the massacre.

Here one query arises: even if there were resistance and both-way battles, can excessive and indiscriminate use of force still be justified? Of course, not. The ideological and political background of the conflict highlights that the Government of Pakistan and military already had ideological (ideological genocide) and political (despotic genocide) intent of genocide in the first place. The excessive and indiscriminate use of force and killings of unarmed

and disarmed male students and faculty only indicate that military personnel were motivated by the feelings of “revenge and anger” against East Pakistanis.

The Dacca University massacre was not only a political killing; it was an act of destroying Bengali nationalism. The assault on Dacca University, which was a center of Bengali nationalism, with excessive and indiscriminate use of force and the subsequent killing of all adult men students and faculty, was part of the plan by the perpetrators to crush the mainstay of Bengali nationalism which was at a peak after the annulment of the session of National Assembly. The claim of genocide is strengthened by Spencer who argues by explaining the qualitative aspect of the term *in part* in the U.N. definition of genocide, as already mentioned, that “... it might involve an attack on a group in a particular area which lies at the heart of the group’s existence. Without a political or cultural or physical core, the group would find it difficult to sustain life, to retain sufficient cohesion sense of purpose” (Spencer, 2011). The students and faculty of Dacca University was certainly that “core”.

The other important thing to note in Bose’s account is “adult men”. Later in her book, while agreeing with the fact that the Pakistani military targeted adult Bengali men she raised a point to strengthen her claim that Pakistani military committed political killings of insurgents that ‘nor were all adult Bengali men the target of army action’ as she further remarks that “some Bengali men were active supporters of regime ... many were not active on either side and the vast majority of such men survived the war” (Bose, 2011 p. 82).

However, it is not necessary that the perpetrators of genocide aim to completely destroy their targeted group as the U.N. definition of genocide clearly mentions ‘to destroy, in whole or in part’, as stated earlier this is termed as “partial genocide” according to Melson’s characterization based on the amount of destruction done. In case of this genocide, the intent of perpetrators was not to destroy Bengalis completely but to alter the ideology and politics that is why they only targeted those who had no place in their utopian vision of society. The genocidal intent of the perpetrators and pattern of choosing the victims suggests that the killing of selective Bengalis fits the definition of genocide.

Persecution of Hindus

One such incident took place at Thanapara on 13 April 1971. Bose (2011), with the help of testimonies of Muhammad Abdus Sattar, the only survivor of the killing, and Jinnah, a student of Maymensingh Agriculture College whose life was spared by the captain of the unit, narrates the incident. She writes that a unit of the military came to regain control of Sarda Police Academy, which was adjacent to Thanapara, from the rebels. When the unit arrived the rebels dispersed. Then the unit approached the riverside when someone shot at them. Women and children were sent back to the village and all the men were shot. Later, their bodies were stacked and disposed of with the help of fire.

Both testimonies reveal that the captain of the army unit picked Hindus and police officers from the captives and shot. Sattar describes the procedures of picking: "He asked questions like, which ones of you are Hindus? When nobody would answer, he picked out people - 'you step out - you are Hindu'. Then- Which ones of you are police? When nobody said anything, he picked a few again: You - you are police...The men the officer picked out were separated from the others and shot" (ibid., p. 101).

The testimony of Jinnah disclosed the same scenario. After the killing of the Hindus and the police, the army captain continued the interrogation of others in the same way. Meanwhile, he received a message on the wireless. Bose suspects that "the instructions seemed to kill them all" (ibid., p. 102). Later, he ordered to open fire on all the captives. After examining the topography of areas where the killing took place Bose highlights a possibility that 'the Pakistanis seemed to think that the people huddling on the river bank were not villagers, but Indian agents who had come across the river.' (ibid., p. 103) Further, the testimony of Sattar strengthens this possibility. Sattar narrates: "the 'captain' asked, 'if you are villagers, then why are you all here, hiding by the river?' They told him it was because they were frightened, but the officer was not convinced. He said, 'if you are not Indian agents, why did you shoot at us?'" (ibid., p. 102).

The case above might be true. However, the pattern of picking their victims indicates the specific hatred of the Pakistani military

against Hindus as they were picked out first and shot. This is further strengthened by Akmal's argument that 'the Hindus as the victims had the double negative characteristics' (Melson, 1992, p. 483).

Bose agrees with the genocidal outcomes of persecution of Hindus, but she also analyzes this with the same lens of 'political killing'. She further labels this as a political killing of suspected to be secessionists or agents of India. However, I argue that ideological and political background of the conflict suggests that it was not merely a political killing as this also includes an aspect of systematic killing of Hindus with the aim of destroying them completely as they were considered an adversary of Islam and an influence for Bengali nationalism, and thus the enemy of the ideology and unity of Pakistan. The findings of the Hamoodur Rahman Commission Report and the process of picking of Hindu victims at Thanapara clearly indicates the specific intent of the Pakistani military to eliminate the Hindus. Relating to my definition of genocide it clearly appears to be a case of genocide and according to Melson's characterization, the killing of Hindus can be termed as "total genocide".

December Killing of Intellectuals and Professionals

During the last days of the conflict, the death squad-style killing of Bengali pro-liberation intellectuals and professionals took place. Bangladeshi accounts held Maj. Gen. Farman Ali responsible for the killing "because a list of names of intellectuals allegedly written by Maj. Gen. Farman Ali was found by Bangladeshis after the war" (Bose, 2011). Hamoodur Rahman Commission report mentions testimonies of Maj. Gen. Farman Ali, Lt. Gen. Niazi and Maj. Gen. Jamshed, the Deputy Martial Law Administrator of Dacca Division about the alleged killing of intellectuals. All three stated that around 9-10 December there was a meeting that considered the possibility of arresting of some persons according to lists prepared by different agencies, in the event of a general uprising in Dacca. However, all three generals denied that any arrest or killing of intellectuals or professionals occurred (Hamoodur Rahman Commission Report: Supplementary report, p. 30).

Bose with the help of testimonies of victims' families and Dilawar Hossain, an accountant, the only survivor of the intellectuals and professional killings at Rayarbazar, draws the events surrounding the picking and killing of the intellectuals and professionals. She mentions that the victims were picked up "by groups of armed Bengali youths identified by the victims' families as Al-Badr" and taken away in a microbus (Bose, 2011 pp. 152-53).

Dilawar Hossain recalls that he was kept in a room with others and he further mentions that "the floor was full of blood and bloodied clothes, everyone in the room had injuries indicative of torture" (ibid., p. 155). Later, they were taken to the death squads and shot. Many of the bodies were found three or four days later at the Rayarbazar and "the bodies had blindfolds and hands tied behind the backs' and 'some bodies never found or identified" (ibid., p. 153).

The important thing to note in Bose's portrayal is "armed Bengali youths" since she held Bengalis responsible for the killing. She suggests a possibility that 'in the second week of December the Pakistani army was fighting, and losing, a war with India and it is possible that while Razakar groups such as the *Al Badar* were created by the army earlier, these Bengali elements had started to operate on their own in the final days of the war' and argues from the testimonies that "the youth who rounded up the targeted intellectuals and professionals were Bengali themselves" (ibid., p. 154). However, her assessment is contradictory to Lt. Gen. Niazi's point of view that she mentioned earlier in her book that states: "the Razakar forces were recruited from among the loyalist Bengalis, but 'In order to keep them under control and utilize, them properly, they were mixed with West Pakistani police and non-Bengali elements.'" (ibid., p. 150).

The cross-examination of these two views suggests that the killing of intellectuals and professionals was not possible without the consent or knowledge or assistance of Pakistani military and martial law authorities. Even if we assume that Bengali elements of *Al Badr* committed this killing solely, then the Pakistani military and martial law authorities are still responsible as they created the Razakar force in first place with the motive of overpowering the Bengali nationalists. What other purpose were they to serve?

This killing was also not merely a political killing; in reality, it was the last blow to Bengali nationalism by the Pakistani military and paramilitary who were losing the war with India. As Bangladeshi accounts argue that “these killings were carried out to destroy the most valuable human capital that the new nation needed” (Pai, 2008). Can this killing be termed as genocide? Again, the claim of genocide is strengthened by Spencer’s explanation of a qualitative aspect of the term *in part* in the U.N. definition of genocide that “It might involve the targeting of particular groups within the overall group, without whose leadership the group might find it hard to survive” (ibid., p. 11)². These intellectuals and professionals were the backbones of the Bengali movement and in fact, had led the language movement since independence. Therefore, their killing was supposed to have spelt the death knell for the Bengali nationalist movement.

Conclusion

The applicability of the Rome Statute in the context of the International Criminal Tribunal came about with the ratification of this statute by Bangladesh in 2010, making it the first South Asian country to do so. The intent of this ratification was to equip Bangladesh with international law that would permit the trial of those, residing in foreign countries, for crimes against humanity, war crimes and the like. Therefore, the adoption of the Rome Statute by Bangladesh has been largely instrumental in the functioning of the International Criminal Tribunal.

Having said so, the basic problem in denying that the massacre of East Pakistanis was not genocide is that it does not consider the ideological and political background of the conflict; instead, it focuses on the secessionist movement alone. For this reason, the analysis of the killing of Bengalis in noncombat situations as political killings of secessionists or suspected to be secessionists deprives them of the application of the UN definition on genocide. However, the ideological and political background of the conflict, as mentioned earlier, shows that the perpetrators of the genocide already had the intent to undermine Bengali nationalism and seize power, in order to alter the ideology (ideological genocide) and politics (despotic genocide) of East Pakistanis - Bengalis, even

before the secessionist movement started and the secessionist movement was an effect of military coercion and not a cause. Therefore, the killing of Bengalis was not merely a politically motivated event but included an ethnic angle to it, making it come under the purview of the UN definition of genocide.

Further, the “partial” genocide of Bengalis occurred as the ideological and political background of the conflict, and the pattern of selecting victims suggests that the aim of the perpetrators was not to destroy the Bengalis completely but to alter the ideology and politics of Bengalis by crushing Bengali nationalism, which was assumed as a threat to the ideology and unity of Pakistan, and seizing complete power. This was achieved through the ideological genocide and despotic genocide of the main targets of the perpetrators who were Bengali students, intellectuals and professionals, Awami League Workers, and Mukti Bahini.

The assault on Dacca University, which was a centre of Bengali nationalism, with excessive and indiscriminate use of force, and subsequent killing of all adult men students and faculty was part of the plan by perpetrators to crush the mainstay of the Bengali nationalism that was at the peak after the annulment of the session of National Assembly by General Yahya Khan. The death squad-style killing of Bengali pro-liberation intellectuals and professionals was an effort by perpetrators to terminate the intelligentsia of Bengali nationalism. The Pakistani military used ‘fraudulent and useless measures’ such as death by firing squads and disappearances by a process called ‘being sent to Bangladesh’ against many civilians, Awami League Workers and Mukti Bahini. Besides, many instances of killing of ordinary Bengali civilians such as the killing of Hindus, police and Bengali civilians in Thanapara who were suspected to be secessionists took place.

It is also unquestionably true that the “total genocide” of Hindus was attempted during the time. The ideological and political background and the pattern of systematic killing of Hindus suggest that the aim of the perpetrators was to completely destroy them as they were considered opponents of Islam and Pakistan, and against the kind of Pakistan that the West Pakistani elite wanted to establish.

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¹Later this article was made Article 6 of Rome Statue 1998 that amalgamated crimes against humanity with genocide and established International Criminal Court. Rome statue also established the jurisdiction of International Criminal Court.